

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALBERT MITCHELL,

Case No. 06-13160

Plaintiff,

District Judge David M. Lawson
Magistrate Judge R. Steven Whalen

v.

COUNTY OF WASHTENAW, et al.,

Defendants.

REPORT AND RECOMMENDATION

Before the Court is Defendants Washtenaw County Prosecutor's Motion to Dismiss [Docket #7], which has been referred for Report and Recommendation pursuant to 28 U.S.C. §636(b)(1)(B). I recommend that the Defendant's motion be DISMISSED AS MOOT.

Defendant Washtenaw County Prosecutor's Office moved to dismiss Plaintiff's Amended Complaint [Docket #2], filed on July 13, 2006, at a time when Plaintiff was proceeding *pro se*. The Amended Complaint also named the Washtenaw County Sheriff's Department and Deputies Steve Armstrong and Richard Rowley as Defendants.

On December 21, 2006, attorney Carl Jackson III entered an appearance of counsel on Plaintiff's behalf [Docket #16]. On January 22, 2007, Mr. Jackson and Defendants' counsel filed a stipulation allowing the Plaintiff to amend his Complaint [Docket #21].

On the same date, Plaintiff's counsel filed a response to the present motion to dismiss, concurring with the relief requested, i.e., that the Washtenaw County Prosecutor's Office be dismissed. On January 23, 2007, Plaintiff filed an amended complaint, dropping the Washtenaw County Prosecutor's Office as a Defendant. On January 25, 2007, the Court entered an order allowing the filing of this Amended Complaint [Docket #24].

On January 29, 2007, the remaining Defendants filed a Motion to Strike the Amended Complaint [Docket #25], which is set for hearing on February 20, 2007. However, that Motion has no bearing on the Washtenaw County Prosecutor's Office.

With the filing of the Amended Complaint (actually, the Second Amended Complaint) on January 23, 2007, the Washtenaw County Prosecutor's Office is no longer a party Defendant, and its previous motion to dismiss [Docket #7] is moot.

Accordingly, I recommend that Defendant's Motion to Dismiss [Docket #7] be DISMISSED AS MOOT.

Any objections to this Report and Recommendation must be filed within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v.*

Detroit Fed'n of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

s/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: January 31, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on January 31, 2007.

s/Susan Jefferson
Case Manager